

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BARRY EMMETT, #1383329,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 6:22-cv-399-JDK-KNM
	§	
TDCJ DIRECTOR, et al.,	§	
	§	
Defendants.	§	

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Barry Emmett, a prisoner of the Texas Department of Criminal Justice (TDCJ) filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 pro se and paid the filing fee. The case was referred to United States Magistrate Judge K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On June 13, 2023, the Magistrate Judge issued a Report recommending that Plaintiff's motion for preliminary injunction be denied. Docket No. 19. On the same day, the Magistrate Judge issued another Report recommending that the case be dismissed with prejudice pursuant to 28 U.S.C. § 1915A(b) due to the sovereign immunity of the only remaining Defendants. Docket No. 18. Copies of both Reports were sent to Plaintiff, who has not filed written objections to either Report.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire

record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Reports and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Reports and Recommendations of the United States Magistrate Judge (Docket Nos. 18, 19) as the findings of this Court. Plaintiff's motion for preliminary injunction (Docket No. 8) is **DENIED**, and this case is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this 1st day of **August, 2023**.



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JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE